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PROJECT NO. 51871

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REVIEW OF THE ERCOT  
SCARCITY PRICING  
MECHANISM

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PUBLIC UTILITY COMMISSION  
OF  
TEXAS

**TEXAS INDUSTRIAL ENERGY CONSUMERS'**  
**COMMENTS ON THE PROPOSAL FOR PUBLICATION**

**I. GENERAL COMMENTS ON PROPOSED RULE**

Texas Industrial Energy Consumers (TIEC) supports the proposed rule revisions as an intermediate step that can be implemented prior to the summer peak. Eliminating the gas price index calculation for the Low System-Wide Offer Cap (LCAP) will avoid unintended consequences like those observed in February, when extraordinary gas prices would have caused the LCAP to substantially exceed the High System-Wide Offer Cap (HCAP). Removing this gas price formula, while addressing generator costs that exceed the \$2,000/MWh LCAP, is a no-regrets change, and TIEC supports implementing it expeditiously. These changes would have made an enormous difference during the February event and would have substantially reduced the overall financial impacts of the storm. While TIEC would have preferred to restore the HCAP this summer to incentivize strong market performance, TIEC recognizes the policy reasons that have led the Commission to make a different choice.

As noted in TIEC's initial comments, the rule could be further improved by providing a clear framework for temporarily applying the LCAP during *force majeure* conditions, when market participants are unable to respond to normal market incentives due to forces beyond their control. While subsection (g)(7) of the proposed rule contemplates that the LCAP might be applied during an "event," this framework is not fully developed in the proposed language. Senate Bill (SB) 3 would require an "emergency pricing" mechanism that takes effect after prices have been at the HCAP for twelve hours in a twenty-four hour period, and would allow the PUC to determine when the emergency pricing would cease. TIEC continues to believe this type of approach is appropriate to address events where the market is unable to "behave its way out," regardless of the PNM threshold. Rather than triggering the LCAP for the remainder of the year due to one extreme event, a temporary emergency price would allow the HCAP to be restored once the *force majeure* event is over. TIEC believes this provides a more stable and predictable market design and will incentivize

better market performance. However, TIEC understands that further work will be done to revise this rule in the near future, including implementing the requirements of SB 3.

## **II. PROPOSED CLARIFICATION**

TIEC understands and appreciates the revisions to allow generators to be reimbursed for actual costs that exceed the LCAP. However, the proposed language does not make clear that a generator's revenues must be insufficient *due to the LCAP*, rather than due to the generator bidding too low. While TIEC believes this was the intent, the language as written would potentially allow a generator to under-bid to make sure it is dispatched, and then receive a make-whole payment for total revenue losses, whether or not the LCAP caused those losses. To clarify this issue, TIEC proposes the following changes to subsection (g)(7) of the proposed rule:

**(g)(7) Reimbursement for Operating Losses During an Event when the LCAP is in Effect.** During an event when the system-wide offer cap is set to the LCAP, ERCOT must reimburse resource entities for any actual marginal costs in excess of the LCAP ~~real-time revenues~~. ERCOT must utilize existing settlement processes to the extent possible to verify the resource entity's costs for reimbursement.

## **III. CONCLUSION**

TIEC appreciates the opportunity to submit this feedback and looks forward to working with the Commission and stakeholders to finalize this rule.

Respectfully submitted,

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**ATTORNEYS FOR TEXAS INDUSTRIAL  
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